Paper No. 30

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte YOUNG-GYO CHOI, BONG-RAE PARK
and ALLEN L. LIMBERG

Appeal No. 1999-0419
Application 08/383,483

HEARD: MAY 9, 2001

Before THOMAS, RUGGIERO and BARRY, Administrative Patent Judges.

THOMAS, Administrative Patent Judge.

DECISION BY BOARD

Appellants have appealed to the Board from the examiner's final rejection of claims 1, 2, 5-22, 25, 30, 31 and 36. Claims 3 and 4 have been allowed, and claims 23, 24 and 32-35 have been canceled.

As noted at the top of page 3 of the principal brief on appeal, claims 26-29 have not been rejected on art in the final rejection. The same is true in the answer. Since

there is no outstanding rejection before us as to these claims, there is no issue for us to decide with respect to them even though appellants' principal brief contains arguments with respect to a rejection by the examiner of these claims before the final rejection.

Representative claim 1 is reproduced below:

1. A recording/reproducing system comprising:

a first unitary package designed for normally resting on a surface such as a tabletop when photorecording is being done by said recording/reproducing system;

a magnetic recording/reproducing apparatus within said first unitary package for storing signals descriptive or moving picture sequences on a magnetic tape, said magnetic recording/reproducing apparatus including recording electronics for receiving a recording input signal and playback electronics for supplying a reproducing output signal;

a second unitary package which can be mechanically attached to and detached from said first unitary package;

a first video camera within said second unitary package for generating a first composite video signal;

means for selectively applying said first composite video signal as the recording input signal to said recording electronics only during first times, said applying being done by radiating electromagnetic energy from said first video camera to said first unitary package at least during those of said first times that said secondary unitary package is detached from said first unitary package rather than by cabling between said first video camera and said first unitary package;

a radio receiver included in said first unitary package, said radio receiver being of a type for supplying a second composite video signal in response to a received television signal not originating from said first video camera; and

means, included in said first unitary package, for selectively applying said second composite video signal as the recording input signal to said recording electronics only during second times other than said first times.

The following references are relied on by the examiner:

Kozuki et al. (Kozuki)	4,507,689	Mar. 26, 1985
Coker et al. (Coker)	4,581,758	Apr. 8, 1986
Bellman, Jr. et al. (Bellman)	4,831,438	May 16, 1989
Dann et al. (Dann)	4,862,278	Aug. 29, 1989
Blazek et al. (Blazek)	4,864,425	Sept. 5, 1989
Solari et al. (Solari)	4,905,315	Feb. 27, 1990
Nakajima	5,264,935	Nov. 23, 1993
Hurwitz	5,568,205	Oct. 22, 1996 (filed July 26, 1993)
Murata[1] (Japanese Patent)[Citizen]	JP60-160278	Aug. 21, 1985

All claims on appeal stand rejected under 35 U.S.C. § 103. As a basic combinations of references, the examiner relies upon Kozuki in view of Citizen, further in view of Hurwitz and Nakajima to reject claims 1, 2, 25, 30, 31 and 36. To this basic combination is added Solari as to claim 5; Solari and Coker as to claims 6-8 and 11; Solari and Coker, further in view of Dann as to claims 9 and 10; Solari and Coker, further in view of Bellman as to claim 12; and Bellman as to claim 13. Claims 14-17 stand rejected on the basis of the collective teachings and showings of Kozuki in view of Citizen and Bellman. Claims 14-22 stand rejected over Kozuki, further in view of Citizen and Blazek.

[1] We will refer to this Japanese reference as Citizen rather than the applicants' name Murata because the examiner and appellants refer to it as Citizen. Our understanding of this reference is based upon a translation provided by the Scientific and Technical Information Center of the Patent and Trademark Office. A copy of the translation is enclosed with this decision.

Rather than repeat the positions of the appellants and the examiner, reference is made to the brief and reply brief as well as the answer for the respective positions thereof.

OPINION

Of claims 1, 2, 5-22, 25, 30, 31 and 36 on appeal, we sustain the rejection of claims 1, 2, 13, 14, 16, 17, 25, 30 and 31. We therefore reverse the rejection as to claims 5-12, 15, and 18-22 and 36.

At the outset, we note that the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of a primary reference. It is also not that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. In re Keller, 642 F.2d 414, 425, 208 USPQ 871, 881 (CCPA 1981); In re Young, 927 F.2d 588, 591, 18 USPQ2d 1089, 1091 (Fed. Cir. 1991).

To the extent appellants argue that the purposes of the references relied upon by the examiner are different from the appellants' disclosed purpose, this is not pertinent to the issue and is essentially irrelevant if the prior art teachings would have led the artisan to construct an arrangement having the claimed structural features.

In re Heck, 699 F.2d 1331, 216 USPQ 1038 (Fed. Cir. 1983) and In re Kronig, 539 F.2d 1300, 190 USPQ 425 (CCPA 1976). In re Heck also indicates that the use of patents as references is not limited to what the patentees described as their own invention. The law of obviousness does not require that references be combined for reasons contemplated by an inventor, but only looks to whether the motivation or suggestion to combine references is provided by prior art taken as a whole. In re Beattie, 974 F.2d 1309, 24 USPQ2d 1040 (Fed. Cir. 1992). In an obviousness determination, the prior art need not suggest solving the same problem set forth by appellants. In re Dillon, 919 F.2d 688, 692-93, 16 USPQ2d 1897, 1901 (Fed. Cir. 1990)(en banc)(overruling in part In re Wright, 848 F.3d 1216, 1220, 6 USPQ2d 1959, 1962 (Fed. Cir. 1988)), cert. denied, 500 U.S. 904 (1991).

The Federal Circuit states that "[t]he mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification." In re Fritch, 972 F.2d 1260, 1266 n.14, 23 USPQ2d 1780, 1783-84 n.14 (Fed. Cir. 1992), citing In re Gordon, 733 F.2d 900, 902, 221 USPQ 1125, 1127 (Fed. Cir. 1984). It is further established that “[s]uch a suggestion may come from the nature of the problem to be solved, leading inventors to look to references relating to possible solutions to that problem.” Pro-Mold & Tool Co. v. Great Lakes Plastics, Inc., 75 F.3d 1568, 1573, 37 USPQ2d 1626, 1630 (Fed. Cir. 1996), citing In re Rinehart, 531 F.2d 1048, 1054, 189 USPQ

143, 149 (CCPA 1976)(the problem to be solved may be a consideration in a determination of obviousness). The Federal Circuit reasons in Para-Ordnance Mfg. Inc. v. SGS Importers Int'l Inc., 73 F.3d 1085, 1088-89, 37 USPQ2d 1237, 1239-40 (Fed. Cir. 1995), that for the determination of obviousness, the court must answer whether one of ordinary skill in the art who sets out to solve the problem and who had before him in his workshop the prior art, would have been reasonably expected to use the solution that is claimed by the Appellants. However, "[o]bviousness may not be established using hindsight or in view of the teachings or suggestions of the invention." Para-Ordnance Mfg. v. SGS Importers Int'l, 73 F.3d at 1087, 37 USPQ2d at 1239, citing W.L. Gore & Assocs., Inc. v. Garlock, Inc., 721 F.2d at 1551, 1553, 220 USPQ at 311, 312-13.

The claims on appeal recite features such as the first clause in the body of representative claim 1 on appeal reproduced earlier stating "a first unitary package designed for normally resting on a surface such as tabletop when photorecording is being done by said recording/reproducing system." To the extent argued by appellants in the brief and reply brief, a different intended use of the same structure as in the prior art does not prohibit a statutory anticipation rejection, for example. Indeed, it has been stated by our reviewing court that "the absence of a disclosure relating to function does not defeat the Board's finding of anticipation. It is well settled that the recitation of a new intended use for an old product does not make a claim to that old product patentable (case citations omitted)." In re Schrieber, 128 F.3d 1473, 1477, 44 USPQ2d 1429, 1431 (Fed. Cir. 1997). The court concludes at 128 F.3d 1477, 44 USPQ2d 1431-

32, that "Schrieber's contention that his structure will be used to dispense popcorn does not have patentable weight if the structure is already known, regardless of whether it has ever been used in anyway in connection with popcorn (emphasis added)." Such reasoning obviously applies to rejections under 35 U.S.C. § 103. Schrieber confirms the guidance provided in Ex parte Masham, 2 USPQ2d 1647 (Bd. Pat. App. & Int. 1987), that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Note also Ex parte Wikdahl, 10 USPQ2d 1546, 1548 (Bd. Pat. App. & Int. 1989) and In re Casey, 370 F.2d 576, 580, 152 USPQ 235, 238, CCPA 1967).

Furthermore, appellants' repeated urging in the brief and reply brief that the references respectively teach away from a feature of the claimed invention is misplaced. As to the specific question of "teaching away," our reviewing court in In re Gurley, 27 F.3d 551, 553, 31 USPQ2d 1130, 1131 (Fed. Cir. 1994) stated "[a] reference may be said to teach away when a person of ordinary skill, upon [examining] the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant." Of the rejections sustained, we do not find any such discouragement or leading away.

We observe that pages 1 and 2 of appellants' specification as filed contains general survey comments with respect to the prior art video recording arts. They recognize that videocassette recorders (VCRs) may be used by operators or not, and may be stand alone units for recording broadcast television signals. Portable

camcorders may be utilized to perform photographic functions but generally require an operator. Appellants generally recognize that camcorders may be utilized operating alone or on tripods by the comment made in the sentence bridging pages 1 and 2 indicating that events such as conferences, weddings and interviews may be recorded using such a camcorder and tripod "so that a camcorder operator need not attend the camcorder during photorecording." Appellants then indicate at the top of page 2 of the specification as filed that it was known to use video recording devices for surveillance operations in various establishments, where such surveillance recorders were fixed and used without operators, but generally required cable links to interconnect the camera to the recording devices.

We turn first to the rejection using the basic combination of references of Kozuki, Citizen, Hurwitz and Nakajima to reject claims 1, 2, 25, 30, 31 and 36. We sustain the rejection as to all these claims except claim 36 as initially set forth by the examiner in the answer in the statement of the rejection, which is restated at pages 17 and 18 of the answer. The examiner's cumbersome approach set forth at pages 4-10 of the answer is somewhat simplified at pages 17 and 18 of the answer. This later portion of the answer is in agreement with our own thinking as to the basis of combineability of the four references relied upon in the initial rejection.

Unlike independent claim 1, independent claim 2 does not require a video signal to be broadcast from a video camera by electromagnetic energy radiations. Kozuki teaches the unitary combination that results from the attachment of video camera 100 to the VTR 500 shown at least in Figure 1 of this reference. On the other hand, Citizen

shows a unitary structure which utilizes a portable TV camera and a magnetic disc recording apparatus within the same housing shown best in Figure 1. Contrary to any arguments in the brief and reply brief, the mounting recitation of claim 2 is not necessarily stated in the claim itself to be permanent. Nevertheless, both Kozuki and Citizen indicate the manner in which the mounting of a video camera to a videotape recorder or video magnetic video recording device may be achieved. The radio receiver combination feature of claim 2 is taught in the Citizen reference which specifically alternatively records broadcast television signals received by antenna 13 in Figures 1 and 3, and discrete video images received by the video camera itself. To the extent broadly recited in the claims on appeal, Citizen's ability to record still images of particular frames or the like of broadcast television images meets the features of claim 2 on appeal.

The examiner's reasoning emphasizes the selectability of Citizen by the operation of the mode changeover switch 9 in Figures 1 and 3 and its cooperating changeover switch 29 in Figure 3 to effect the selectability of what is actually recorded in accordance with the recitations at the end of claim 2 on appeal. Additionally, it would have been obvious to the artisan that the structure in Figure 1 of Citizen would lend itself to be based on a tabletop surface for photorecording operations. Even though Kozuki indicates that a video camera may be attached to the video tape recorder, it is Citizen that teaches that a video camera may be mounted within the video recorder itself as recited in claim 2. Clearly, there is no prohibited hindsight exercised by the examiner in the combination of these two references at least with respect to claim 2 on

appeal. Since Citizen is limited to video discs of still images, the complementary teachings of video tape-recording in Kozuki would have been an obvious enhancement to the combination for recording a series of discrete images as normally done from broadcast television on video tape recorders anyway.

As to the addition of Hurwitz and Nakajima to Kozuki and Citizen, these two references are merely cumulative to the combination of Kozuki and Citizen as to claim 2. Many of the arguments presented at pages 21-23 of the principal brief on appeal as to claim 2 therefore are not pertinent since there is no need to rely on the specific teachings and suggestions of Hurwitz and Nakajima as to the ability of their cameras to broadcast video signals for recording by a video recording device as taught by these references since such a feature is not recited in claim 2. It appears to us that the teaching value of Citizen has not been fully appreciated by appellants in accordance with these arguments.

The examiner adds Bellman to the combination of the four basic references to further reject claim 13. In accordance with the Figures 1-3 and 6A teachings, this reference indicates that it was known in the art to transmit by radio frequency transmissions video and audio information from plural remote sources to a common ground monitoring receiver as element 400 in Figure 1 to be recorded in a common video cassette recorder 486 by selectively switching therebetween. These features would have been an obvious enhancement to the Citizen-Kozuki combination. Moreover, since the basic rejection relies on Kozuki, Citizen, Hurwitz and Nakajima,

Bellman adds to the video camera transmitter teachings already in Hurwitz and Nakajima. In addition to using microwave frequencies as Bellman itself teaches, he also indicates that it was known in the art to use normal radio frequencies for such purposes as expressed in the first column of the background of the invention discussion therein. It is also noted that the discussion at column 3, lines 18-21 indicates that other radio frequencies may be employed other than the microwave frequencies used. Compare Hurwitz and Nakajima as well.

The discussion at column 1 of Bellman indicates that it was considered advantageous to utilize radio frequency transmissions of video signals to avoid the limitations of cable connections between the video sensing image devices and their recording devices. The low-power transmitting capability of claim 13 is a relative term. A relative low power utilized in Bellman is in the context of not only the broadcast distance but the nature of the modulation scheme at microwave frequencies. Such are governed by Federal Communications Commission (FCC) regulations for whatever environment they are to be used in. Because the combination of Kozuki and Citizen utilizes the ability to receive video signals from normal broadcast television stations of relatively high power, to utilize a remote video broadcast device in accordance with Bellman's teachings, the power requirements would have been significantly lower as required by FCC regulations. Moreover, the selectability between the plural cameras

recited in the combination of claims 2 and 13 would have been obviously optimally done by the normal channel selector provided for broadcast TV channels as taught by

Citizen. Appellants' arguments as to the rejection of this claim at pages 32-34 of the brief do not persuade us of any error in the examiner's rejection.

Turning to independent claim 1 on appeal, in contrast to claim 2, this claim adds the feature of a video camera being selectably attachable in its own second unitary package to a primary or first unitary package, where the video camera may be able to broadcast its images by electromagnetic radiation. In the context of the combination of Kozuki and Citizen, both Hurwitz and Nakajima teach that this broadcast feature was known in the art. Even as to the reliance upon Bellman and the rejection of claim 13 just discussed, Bellman confirms what is already taught by Hurwitz and Nakajima anyway in the basic combination of the four references utilized to reject claims 2 and 13 on appeal. The Hurwitz device in its various figures indicate that it was known in the art to utilize a single housing for wireless communication of video camera images which are also recorded not only in the camera itself, but also in plural remote receiver units able to receive the broadcast video images, such as are indicated as the remote recordable external video tape recorder 60 associated with the receiving antenna 42 in the receiving unit 40 in Figure 1. A similar showing there is of a fixed site 75 which has its own monitor and videotape recorder element 70. Each of these devices are more

particularly shown in other figures of this reference. Like Bellman, it appears that microwave frequencies are utilized for these relatively short distance broadcasts for audio and video information from a common video camera source. Like Citizen, the

fixed site 75 in Figure 1 as well as the portable site 40 in this figure are analogous in function and location to the fixed-type device of Citizen where the recording occurs. Obviously, it would have been an enhancement from the artisan's perspective to have added the capability of remote video camera recording by radio frequency transmissions as taught by Hurwitz to the fixed video camera embodiments shown in the combination of Kozuki and Citizen.

On the other hand, Nakajima indicates that it was also well known in the art to utilize wireless video cameras for recording purposes at fixed locations. The summary of the invention at the bottom of column 1 of this reference also indicates that it was done without the use of a connecting cable. It appears that more conventional frequencies other than microwave frequencies were utilized according to Nakajima's teachings. Furthermore, like Citizen, Figures 6 and 7 of Nakajima indicate the selectability of choosing between displaying on the television 26 broadcast television or video camera wireless video transmissions. In the context of the combination of Kozuki and Citizen, the ability to record at a remote location two types of broadcast video signals would have been an obvious enhancement or, vice versa, the ability to record at a fixed location according to the teachings and Kozuki and Citizen would have been enhanced by the ability to select between broadcast television images, images received by the fixed camera within the device of Citizen itself as well as the remote wireless video camera.

We are unpersuaded of appellants' arguments of patentability with respect to claim 1 at pages 16-19 of the principal brief on appeal. The emphasis here is the

structural combination and not the combination of the teachings of the references relied upon by the examiner, which is the determining factor within a proper analysis of the applied prior art within 35 U.S.C. § 103 and not the approach taken by appellants. Our reasoning has embellished upon the examiner's reasoning for combineability of the four references relied upon. There are no clear teachings away, contrary to appellants' arguments in the brief, as to the combination of the actual teachings of the references themselves. In fact, the opposite is true when the teachings are considered fairly among the four references and properly weighed.

Appellants have not argued the particulars of dependent claim 25. The audio recording feature of claim 25 is clearly taught by Kozuki, Nakajima and Hurwitz anyway.

Similarly, dependent claim 30 is not argued by appellants. In any event, such requirements of this claim are taught by Hurwitz and Nakajima anyway. The feature of the dependent claim 31 argued by appellants is the feature of this claim that the transmitter is of the type for transmitting modulated electromagnetic energy. Although Nakajima does not detail this, it is clear at least from the Figure 7 embodiment that there are various detection methodologies shown in the figure which indicate that there are carrier detection circuits within the device in this figure. Such would clearly indicate that a modulation of electromagnetic energy would have occurred. The discussion in the initial lines of column 6 of Hurwitz indicates that there is a modulator employed to broadcast video images from the camera according to the teachings of this reference.

It is hard to understand how the artisan would not have appreciated that some form of modulation of a carrier would have been necessary for transmitting audio and video information from the camera 17 in Figure 1.

We turn lastly to the features of dependent claim 36 rejected under the first combination of the four references relied upon by the examiner in the initial rejection. We reverse the rejection of this claim because the examiner's position with respect to this claim has not been detailed in the final rejection or answer among the collective teachings of the four references relied upon; the examiner did not address in any manner the features required of this claim. The nature of the mounting of the video camera within the first unitary package of claim 2 is detailed here such as to permit "a camera angle of the first video camera to be altered without having to change a resting position of said first unitary package." Since a similar feature is recited in independent claims 5 and 7 on appeal, we also reverse the rejection of them even though the

examiner additionally relies upon Solari as to claim 5 and the combination of Solari and Coker as to claims 6-8 and 11 in addition to the basic combination of Kozuki, Citizen, Hurwitz and Nakajima. The common feature of independent claims 5 and 7, found as well initially in dependent claim 36, has not been argued by the examiner and it is not apparent to us that it is taught or suggested in any manner among the combination of references relied upon to reject any of these claims. We, therefore, reverse the rejection of dependent claim 6 depending from claim 5 and the rejections of all

dependent claims 8-12 depending from independent claim 7 even though they may further rely upon still further additional references since they do not cure the deficiencies with respect to their respective independent claims 5 and 7.

The rejection of independent claim 5 is also reversed because Solari, relied upon by the examiner in combination with Kozuki, Citizen, Hurwitz and Nakajima to reject this claim, has no teachings or suggestions in it, even if properly combined with the four references to meet the argued features, as appellants point out very well in the principal brief on appeal, of the feature of an input coding means performing a coding operation of a predetermined position of an object and the rotation angle corresponding thereto along with the details of the memory and the micro-computer at the end of claim 5 on appeal.

We turn next to the rejection of claims 14-22 as being obvious over the collective teachings and showings of Kozuki, Citizen, and Blazek. From our earlier discussion it is apparent that the combination of Kozuki and Citizen does not teach a low power television transmitter as required by independent claim 14 on appeal. The examiner relies upon Blazek as to this feature, specifically the view that Figures 1b and 6b of Blazek teache a low power television transmitter. As indicated at pages 36 and 37 of the principal brief on appeal, the examiner misperceives the low power transmitter 60 specifically taught to be for audio signals as a television transmitter of video signals. The discussion beginning at the middle of column 7 of Blazek specifically teaches at lines 40-43 that "audio from the CD player 53 is used to modulate the radio transmitter 60, which is provided with a radiating antenna 61." The Figure 6b embodiment does

not detail any further the operability or useability of antenna 61 to broadcast any video signals. Therefore, we are in agreement with appellants' view at the bottom of page 36 of the principal brief on appeal that Blazek does not provide any suggestion of a low power television transmitter for video signals to the combination of Kozuki and Citizen which together fail to teach this feature as well. As such, the rejection of independent claim 14 must be reversed as well as its respective dependent claims 15-21.

We also reverse the rejection of independent claim 22 essentially for two reasons. The combination of Kozuki with Citizen and Blazek fails to provide the structural limitations of the preamble of this claim, which include the same feature recited in dependent claim 36, independent claim 5 and independent claim 7 as noted earlier in this opinion. This includes the feature of a recording/reproducing apparatus including a unitary package with a video camera having a drive mechanism for changing the camera angle of the video camera. There is no provision for doing this according to the combination of Kozuki, Citizen, and Blazek. We also reverse the rejection because the various steps of the body of the method claim 22 itself also can not be met by the teachings and suggestions of this combination of references. Again, the additionally provided reasons for rejecting claim 5 on appeal as stated earlier regarding the features of supplying a position code corresponding to a desired camera angle utilizing a memory to store it and a microcomputer to operate it have not been argued and are clearly not shown or taught in the combination of Kozuki, Citizen, and Blazek.

Finally, we turn to the rejection of claims 14-17 in light of the collective teachings and showings of Kozuki, Citizen and Bellman. We sustain this rejection as to claims 14, 16 and 17 for the reasons essentially set forth by the examiner. Our earlier analysis with respect to Kozuki and Citizen as well as with respect to Bellman are clearly applicable here. Appellants' arguments with respect to claim 14 at pages 34-36 of the principal brief on appeal have not been found to be persuasive for the reasons established earlier in our opinion.

We reverse the rejection as to dependent claim 15. The claimed second unitary package of claim 14 is said in claim 15 to be "attached to said first unitary package." Although this feature is taught by Kozuki, no combination of features of Kozuki, Citizen, and Bellman teaches the additional requirements of claim 15 that the attachment be "so as to allow the second unitary package to be moved respective to the first unitary package, in order to change a camera angle of said first video camera" (emphasis added). The combination of the three references relied upon would not provide for the capability of the attached second unitary package containing a video camera to be moved with respect to or "respective to" the first unitary package. Once the camera 100, for example, of Kozuki is attached to its videotape recorder unit 500, the second unitary package 100 containing the video camera would not be movable with respect to the first unitary package, the VTR 500, for any purpose let alone to change the camera angle of the first video camera. Even though the video camera of Citizen is contained within the housing 1 of the portable camera device in this reference, the noted feature recited in claim 15 can not be met. Likewise, Bellman's cameras with their respective

housings 200 in Figure 1 are not necessarily taught to be attachable to any device such as to permit the camera housings 200 to be moved with respect to any first unitary package attached thereto.

We do sustain the rejection of claims 16 and 17. The discussion with respect to the reversal of dependent claim 15 makes clear that the teaching value of the combination of the three references meeting claim 16 is found in Kozuki. We do, however, find it also would have been obvious to the artisan that the camera units 200 in Figure 1 of Bellman would have been designed to be attached to and removable from the airplane in which they are located. There are no arguments presented by appellants as to dependent claim 17.

From our study of the claims on appeal we note in passing a violation of 37 CFR §1.75(b) as to the inclusion of claims 14, 16 and 18-21, which correspondingly appear to be identical to the subject matter of independent claim 26 and its respective dependent claims 27-29. The sole rejection of claims 18-21 under 35 U.S.C. § 103 of record has been reversed. The subject matter presented by dependent claim 18/16/14 is equal to independent claim 26. Similar correspondence can be made with respect to claims 19 and 27, 20 and 28 and 21 and 29. Since substantially identical subject matter has been set forth in the corresponded-to claims and no substantial distinctions appear to exist between them, the existence of the duplicate claims appears to violate the provisions of this rule.

In closing, we have sustained the rejections of claims 1, 2, 13, 14, 16, 17, 25, 30 and 31. On the other hand, we have reversed the rejections of claims 5-12, 15,

18-22 and 36 of the claims on appeal. Therefore, the decision of the examiner is affirmed-in-part.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR §1.136(a).

AFFIRMED-IN-PART

James D. Thomas Administrative Patent Judge	))))) BOARD OF PATENT
Joseph F. Ruggiero Administrative Patent Judge	)) APPEALS AND)) INTERFERENCES
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